

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LINDA TRAVIS,

Plaintiff,

-against-

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 03/29/2023

22-CV-8640 (JMF) (BCM)

ORDER

BARBARA MOSES, United States Magistrate Judge.

The Court is in receipt of the Commissioner's motion to dismiss this action pursuant to Fed. R. Civ. P. 12(b)(1). (Dkt. 26.) The Commissioner points out that while plaintiff Linda Travis's disability benefits were suspended as of April 2022, they have since been reinstated, retroactive to April 2022. Wilder Decl. (Dkt. 28) ¶¶ 3(b)-(c) & Exs. 1, 3, 4. The Social Security Administration (SSA) made a retroactive payment in January 2023 (covering April 2022 through December 2022), and resumed paying plaintiff's regular monthly disability benefits in February 2023. *Id.* ¶ 3(c) & Ex. 4.

The Commissioner further states that, when the retroactive payment was made in January 2023, the SSA deducted the sum of \$680.40, representing plaintiff's Medicare Part B premiums for May-August 2022. Wilder Decl. Ex. 4. Her Medicare coverage ceased in September 2023 due to non-payment of premiums. *Id.* ¶ 3(d). In February 2023, plaintiff requested reinstatement of her Medicare Part B coverage, but only as of March 2023. *Id.* ¶ 3(f) & Ex. 6. Plaintiff explained that she did not use or need Medicaid Part B coverage during the period May 2022-February 2023. *Id.* Ex. 6. Consequently, she also requested reconsideration of the premium payment of \$680.40, which was deducted from her retroactive disability benefits. *Id.* Ex. 7. Plaintiff's Medicare Part B coverage was reinstated in March 2023. *Id.* ¶ 3(h) & Ex. 9. However, on March 9, 2023, the SSA denied her request for reconsideration as to the \$680.40. *Id.* ¶ 3(g) & Ex. 8.

Plaintiff's Complaint (Dkt. 2) was filed on October 10, 2022, and her Amended Complaint (Dkt. 7) was filed on November 14, 2022, before many of the events described above took place.

If plaintiff opposes the dismissal of this action, she shall file her opposition memorandum no later than **April 27, 2023**. It would be helpful to the Court for plaintiff to provide clarification on certain aspects of the claims in her Amended Complaint, namely:

- (i) What decision or determination of the SSA does plaintiff seek to challenge;
- (ii) What was the date on which that decision or determination was made;
- (iii) What efforts, if any, has plaintiff made to seek further consideration or review of that decision or determination within the SSA; and
- (iv) If plaintiff sought further consideration or review, what further decision or determination did the SSA make, and on what date.

Defendant's reply memorandum, if any, shall be filed no later than **May 11, 2023**.

Dated: New York, New York
March 29, 2023

SO ORDERED.



BARBARA MOSES
United States Magistrate Judge